



Corporation Tax Act 2010

2010 CHAPTER 4

PART 9

LEASING PLANT OR MACHINERY

CHAPTER 3

SALES OF LESSORS: LEASING BUSINESS CARRIED ON BY A COMPANY ALONE

“Qualifying change of ownership”

392 “Qualifying change of ownership”

- (1) This section defines when there is a qualifying change of ownership in relation to a company (“A”) for the purposes of the sales of lessors Chapters.
- (2) There is a qualifying change of ownership in relation to A on any day if there is a relevant change in the relationship on that day between—
 - (a) A, and
 - (b) a principal company of A.
- (3) For an exception to subsection (2) see section 395 (no qualifying change of ownership in certain intra-group reorganisations).
- (4) There is a relevant change in the relationship between A and a principal company of A on any day in any of the circumstances in section 393 or 394 (qualifying 75% subsidiaries and consortium relationships).
- (5) For an exception to subsection (4) see section 396 (no qualifying change of ownership where principal company’s interest in consortium company unchanged).

393 Qualifying 75% subsidiaries

- (1) A company (“B”) is a principal company of A if—
 - (a) A is a qualifying 75% subsidiary of B, and
 - (b) B is not a qualifying 75% subsidiary of another company.
- (2) There is a relevant change in the relationship between A and B (as a principal company) on any day if A ceases to be a qualifying 75% subsidiary of B on that day.
- (3) A company (“C”) is a principal company of A if—
 - (a) A is a qualifying 75% subsidiary of B,
 - (b) B is a qualifying 75% subsidiary of C, and
 - (c) C is not a qualifying 75% subsidiary of another company.
- (4) There is a relevant change in the relationship between A and C (as a principal company) on any day if—
 - (a) A ceases to be a qualifying 75% subsidiary of B on that day, or
 - (b) B ceases to be a qualifying 75% subsidiary of C on that day.
- (5) If C is a qualifying 75% subsidiary of another company (“D”), D is a principal company of A unless D is a qualifying 75% subsidiary of another company, and so on.
- (6) Accordingly, there is a relevant change in the relationship between A and a principal company of A on any day if—
 - (a) in determining which company is a principal company, regard is had to any company which is a qualifying 75% subsidiary of another, and
 - (b) that company ceases to be a qualifying 75% subsidiary of the other on that day.
- (7) This section is supplemented by section 398 (“qualifying 75% or 90% subsidiary” etc).

394 Consortium relationships

- (1) A company (“E”) is a principal company of A if—
 - (a) A is owned by a consortium of which E is a member, or
 - (b) A is a qualifying 90% subsidiary of a company owned by a consortium of which E is a member,
 and E is not a qualifying 75% subsidiary of another company.
- (2) There is a relevant change in the relationship between A and E (as a principal company) on any day if the ownership proportion at the end of the day is less than the ownership proportion at the start of the day.
- (3) In this section “the ownership proportion” is whichever is the lowest of the following percentages—
 - (a) the percentage of the ordinary share capital of A that is beneficially owned by E,
 - (b) the percentage to which E is beneficially entitled of any profits available for distribution to equity holders of A, and
 - (c) the percentage to which E would be beneficially entitled of any assets of A available for distribution to its equity holders on a winding up.
- (4) But if A is a qualifying 90% subsidiary of a company, subsection (3) is to be read as if references to that company were substituted for references to A.

Status: This is the original version (as it was originally enacted).

- (5) A company (“F”) is a principal company of A if, in a case where E is a qualifying 75% subsidiary of F but F is not a qualifying 75% subsidiary of another company—
- (a) A is owned by a consortium of which E is a member, or
 - (b) A is a qualifying 90% subsidiary of a company owned by a consortium of which E is a member.
- (6) There is a relevant change in the relationship between A and F (as a principal company) on any day if—
- (a) the ownership proportion at the end of the day is less than the ownership proportion at the start of the day, or
 - (b) E ceases to be a qualifying 75% subsidiary of F on that day.
- (7) If F is a qualifying 75% subsidiary of another company (“G”), G is a principal company of A unless G is a qualifying 75% subsidiary of another company, and so on.
- (8) Accordingly, there is a relevant change in the relationship between A and a principal company of A on any day if—
- (a) in determining which company is a principal company, regard is had to any company which is a qualifying 75% subsidiary of another, and
 - (b) that company ceases to be a qualifying 75% subsidiary of the other on that day, (as well as if the ownership proportion at the end of the day is less than the ownership proportion at the start of the day).
- (9) This section is supplemented by—
- (a) section 397 (companies owned by consortiums and members of consortiums), and
 - (b) section 398 (“qualifying 75% or 90% subsidiary” etc).

395 No qualifying change of ownership in certain intra-group reorganisations

- (1) This section applies if—
- (a) a relevant change in the relationship between a company (“A”) and a principal company of A occurs on any day,
 - (b) that change occurs by reference to A or any other company ceasing to be a qualifying 75% subsidiary on that day, and
 - (c) A, and every company by reference to which that change occurs, are qualifying 75% subsidiaries of the principal company concerned at the start and end of that day.
- (2) For the purposes of the sales of lessors Chapters, there is no qualifying change of ownership in relation to A on that day as a result of that change in the relationship.

396 No qualifying change of ownership where principal company’s interest in consortium company unchanged

- (1) This section applies if—
- (a) a company (“A”) is owned by a consortium, and
 - (b) a relevant change in the relationship between A and a principal company of A occurs on any day,
- but the principal company’s interest in A remains unchanged.

- (2) For the purposes of the sales of lessors Chapters, there is no qualifying change of ownership in relation to A on that day as a result of that change in that relationship.
- (3) For the purposes of this section the principal company's interest in A remains unchanged if the percentage of the ordinary share capital of A that is beneficially owned directly or indirectly by the principal company is the same at the beginning and end of that day.
- (4) Sections 1155 to 1157 apply for construing subsection (3).

397 Companies owned by consortiums and members of consortiums

- (1) This section defines what a company being owned by, or a member of, a consortium means for the purposes of the sales of lessors Chapters.
- (2) A company is owned by a consortium if—
 - (a) it is not a qualifying 75% subsidiary of any company,
 - (b) at least 75% of its ordinary share capital is beneficially owned between them by other companies, and
 - (c) none of those other companies owns less than 5% of that capital.
- (3) Those other companies are the members of the consortium.

398 “Qualifying 75% or 90% subsidiary” etc

- (1) For the purposes of the sales of lessors Chapters, a company (“the subsidiary company”) is a qualifying 75% subsidiary of another company (“the parent company”) if condition A or B is met and condition C is met.
- (2) Condition A is that—
 - (a) the subsidiary company has ordinary share capital, and
 - (b) the subsidiary company is a 75% subsidiary of the parent company.
- (3) Condition B is that—
 - (a) the subsidiary company does not have ordinary share capital, and
 - (b) the parent company has control of the subsidiary company.
- (4) Condition C is that the parent company—
 - (a) is beneficially entitled to at least 75% of any profits available for distribution to equity holders of the subsidiary company, and
 - (b) would be beneficially entitled to at least 75% of any assets of the subsidiary company available for distribution to its equity holders on a winding up.
- (5) In the sales of lessors Chapters, references to a qualifying 90% subsidiary are to be read in the same way as references to a qualifying 75% subsidiary, but as if the references in subsections (1), (2) and (4) to 75% were to 90%.
- (6) A company (“S”) cannot be a qualifying 90% subsidiary of another company for the purposes of the sales of lessors Chapters if S is a qualifying 75% subsidiary of a third company.
- (7) Chapter 6 of Part 5 (equity holders and profits or assets available for distribution)—

- (a) applies for the purposes of section 394(3)(b) and (c) (including that section as applied for the purposes of section 406(5)) and of section 405(5)(b) and (c) as that Chapter applies for the purposes of section 143(3)(b) and (c) (condition 1: surrendering company owned by consortium) and section 144(3)(b) and (c) (condition 1: claimant company owned by consortium), and
 - (b) applies for the purposes of subsection (4)(a) and (b) as that Chapter applies for the purposes of section 151(4)(a) and (b) (meaning of “75% subsidiary” and “90% subsidiary”).
- (8) But in a case where the subsidiary company does not have ordinary share capital, Chapter 6 of Part 5 applies for those purposes as if the members of that company were equity holders of that company for the purposes of that Chapter.